IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 15495 of 2004

Between:

Adi Andhra Fisherman Co-operative Society, Chataparru, a registered Co-operative Society, bearing No. 482, rep. by its President Chemallamudi Apparao, having its office at Chataparru Village, Eluru Mandal, West Godavari District.

..... PETITIONER

AND

1 A.P. TRANSCO, rep. by its Managing Director, Somajiguda, Hyderabad.
2 Andhra Pradesh Eastern Power Distribution Company Ltd, rep. by its Incharge having its office at Hyderabad.
3 The Additional Assistant Engineer, Operation : D4, Eluru, West Godavari District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd Respondent in passing the proceedings bearing Lr.No. A.A.E/O/D4/Elr/F.FISHTANKS/D.NO. 247/04, dated 24-8-2004 as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India.

Counsel for the Petitioner:MR.C.S.N.RAJU

Counsel for the Respondents: MRS.M.VINOBHA DEVI (SC FOR APTRANSCO)

The Court at the admission stage made the following :

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ORDER :

Heard the learned counsel for the petitioner and Smt.M.Vinobha Devi, learned standing counsel appearing for the respondents.

The petitioner, is a Fishermen Co-operative Society. The members of the petitioner society obtained electricity service connection No.584, G.V.Lanka at Gudivakalanka, near Chataparru, Eluru of West Godavari District in the year 1997 for the purpose of carrying on the activities of the Society. It is stated that the petitioner has been regularly paying the energy consumption charges and there is absolutely no default at any point of time. While so, the impugned proceedings dated 24.08.2004 issued by the 3rd respondent herein has been served on the petitioner Society in which it is stated that as per the Gazette notification No.422 dated 11.11.1999 published by the Government of Andhra Pradesh, the proceedings of the District Forest Officer in R.C.No.339/02 WLM dated 01.08.2003 and 28.05.2004 as wellas the proceedings of theDEE/O/ELECTRICAL/AE.T/F/D No.1696 dated 12.08.2004, the service connection of the petitioner is situated in +5 contour of Kolleru Lake, and therefore, unless it is established within seven days from the date of receipt of the said notice that their service connection is not located within the area of +5 contour of Kolleru Lake, the power supply to their service connection will be disconnected, and the meter will also be removed. The said proceedings dated 24.08.2004 are under challenge.

The petitioner denies all the allegations made in the impugned notice dated 24.08.2004 and states that the unilateral decision of the respondents under the impugned notice to disconnect the power supply to the service connection of the petitioner without affording any opportunity to rebut the allegations made therein, is arbitrary and illegal, apart from being without jurisdiction. It is also stated that the impugned proceedings refers to several orders of the Government of Andhra Pradesh, District Forest Officer, as well as the Deputy Executive Engineer, Eluru, but none of the said orders is served on the petitioner, and that in the absence of the said proceedings, they cannot effectively explain the allegations in the impugned notice.

Having heard the learned counsel for the petitioner and on a perusal of the material on record, I am of the view that the action proposed under the impugned notice cannot be taken without making available to the petitioner the copies of the proceedings on the basis of which the impugned notice has been issued.

Accordingly, I deem it appropriate to dispose of the writ petition with a direction to the respondents to furnish copies of the proceedings of the Order of the Government of Andhra Pradesh in Gazette No.422, dated 11-11-1999, proceedings of the District Forest Officer in R.C.No.339/2002, dated 01-08-2003 and 28-05-2004 as well as the proceedings of the Deputy Executive Engineer (Operation), Eluru, dated 12-08-2004 within two weeks from today. On receipt of such proceedings, it is open to the petitioner to submit its explanation to the third respondent – The Additional Assistant Engineer (operation), D-4, Eluru, W.G. District., treating the impugned notice as show-cause notice within two weeks thereafter. If such explanation is received within the time specified above, the 3rd respondent shall consider the same and pass appropriate orders in accordance with law. Till such orders are passed, there shall not be any disconnection of power supply to the service connection No.584 of G.V. Lanka at Gudivakalanka, near Chataparru, Eluru of West Godavari District.

The Writ Petition is accordingly disposed of. No costs.

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30th August, 2004.

sh/gbs

To

1 The Managing Director A.P. TRANSCO, Somajiguda, Hyderabad.
2 The Managing Director (Incharge)Andhra Pradesh Eastern Power Distribution Company Ltd, Hyderabad.
3 The Additional Assistant Engineer, Operation : D4, Eluru, West Godavari District.
4. Two C.D. copies.

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15495 of 2004

Dated: 30.08.2004